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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,077	07/09/2001	Steven Henry Buss	15431-US	7792

7590

12/27/2002

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EXAMINER

KOVACS, ARPAD F


ART UNIT

PAPER NUMBER

3671

DATE MAILED: 12/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/902,077	Applicant(s) BUSS ET AL.	
	Examiner Árpád Fábíán Kovács	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Priod for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 11 and 12 is/are rejected.
- 7) ☒ Claim(s) 9 and 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>7</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In re claim 7, it appears that its subject already covered in claim 6 (its independent claim), for example the first & second portions, a ramp etc.... For examination purposes it is treated as claiming the same structural elements as claim 6.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Reilly (4543773, newly cited by Applicant).

In re independent claim 1, Reilly discloses a cutting implement usable with a vehicle comprising: plurality of cutting chambers (fig 1) having front wall (at ref a-c), top surface (at ref 13) in an interior thereof (fig 1);

A cutting blade (17, 19, 21) housed within each chambers, each of the blades being rotatable within its chamber and defining a cutting plane therein & causing a respective stream of air & vegetation to flow & directed against along the front wall (see fig 1);

A baffle for causing the stream from one of the chambers to flow upwardly above the stream from an adjacent chamber (baffle ref 33 extending from one adjacent chamber into another reduces blow out thus it directs the air/vegetation along the inclined surface ref 13 of the top surface, thus above the plane of rotation of the blade closest to an exit/discharge ref 27);

In re claims 4-5, as shown in fig 1, the baffle ref 33 extends and joins to at least a first and second of the plurality of chambers & extends inwardly from the front walls of the chambers or of the one blade & an the other adjacent chamber.

3. Claims 1-8, 11-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Terutaka et al. (JP01010913A, newly cited by Applicant).

In re independent claim 1, Terutaka discloses a cutting implement usable with a vehicle comprising: plurality of cutting chambers (fig 4) having front wall (at ref 7), top surface (at ref 18) in an interior thereof (fig 4);

A cutting blade (10a-c) housed within each chambers, each of the blades being rotatable within its chamber and defining a cutting plane therein & causing a respective stream of air & vegetation to flow & directed against along the front wall (see fig 6);

A baffle for causing the stream from one of the chambers to flow upwardly above the stream from an adjacent chamber (baffle ref 36a-c, 34);

In re independent claims 6 & 12, Terutaka discloses a cutting implement usable with a vehicle comprising: plurality of cutting chambers (fig 4) having front wall (at ref 7), top surface (at ref 18) in an interior thereof (fig 4);

A cutting blade (10a-c) housed within each chambers, each of the blades being rotatable within its chamber and defining a cutting plane therein & causing a respective stream of air & vegetation to flow & directed against along the front wall (see fig 6);

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A baffle for causing the stream from one of the chambers to flow upwardly above the stream from an adjacent chamber (baffle ref 36a-c, 34);

The baffle having first & second portions one is inclined relative to the other to form a ramp (inclined baffle section 34; fig 1 & 8);

In re claim 2, The baffle having first & second portions one is inclined relative to the other to form a ramp (compare 36b & 36c in fig 1 & 8);

In re claim 3, baffle creates an area extending below its first & second portions in which the stream from one chamber and the adjacent chamber is not introduced (not disturbed, see Abstract);

In re claims 4-5 & 11, as shown in fig 1, the baffle ref 36b extends and joins to at least a first and second of the plurality of chambers & extends laterally inwardly from the front walls of the chambers or of the one blade & an the other adjacent chamber.

In re claim 7, see US 112 rejection & claim 6 rejection above;

In re claim 8, the baffle reduces the stream/flow of cut vegetation below its first and second portions to permit the vegetation bent over by the front walls of the first & second chambers to straighten so as to extend into the cutting plane of the blade of at least the second chamber (see fig 5 & 1 & 8).

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Allowable Subject Matter

4. Claims 9-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment to the claims, for example, in independent claim 1, "above the stream from an adjacent chamber", last five lines of independent claims 6 & 12, and the pertinent/relevant prior art cited in the IDS necessitated the new rejection presented above.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

6. Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 12/18/2002 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS**

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MADE FINAL. See MPEP § 609(B)(2)(i). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

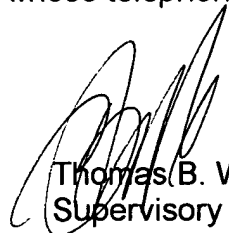
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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Árpád Fábián Kovács whose telephone number is 703 308 5897. The examiner can normally be reached on Mo-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 703 308 3870. The fax phone numbers for the organization where this application or proceeding is assigned are 703 305 7687 for regular communications and 703 308 8623 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 1113.



Thomas B. Will
Supervisory Primary Examiner
Art Unit 3671

ÁFK
December 26, 2002